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OFFICE OF PETITIONS

In re Application of :
MASSOD, PAUL E. :
Application No. 09/334,574 :
Filed: 06/21/1999 :
Attorney Docket No. 10925/002001 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 20, 2005, to withdraw the holding of abandonment.

On October 22, 2004, applicants submitted a REQUEST FOR RECONSIDERATION OF THE DECISION ON APPEAL DATED AUGUST 17, 2004. On December 14, 2004, the Board of Patent Appeals and Interference mailed a Decision on the Request for Rehearing. On January 7, 2005, the Office mailed a Notice of Abandonment stating that the application was abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on August 17, 2004, and because the period for seeking court review of the decision had expired and there were no allowed claims.

On June 20, 2005, applicants filed the present petition to withdraw the holding of abandonment. Applicants averred that the Notice of Abandonment was mailed in error. Specifically, applicants asserted that the time for filing a notice of appeal to the Federal Circuit or for commencing a civil action expired two months after a decision on a request for rehearing or reconsideration (37 CFR 1.304(a) (i.e. February 15, 2005).

Upon further review, applicants are correct that the application did not become abandoned until February 15, 2005. However, there is nothing in the record to indicate that applicants took appropriate action on or before February 14, 2005. Accordingly, the application is currently abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on December 14, 2004, and because the period for seeking court review of the decision has expired and there are no allowed claims.

The petition to withdraw the holding of abandonment is dismissed. The application will remain in its abandoned state until applicants file a petition to revive the application, accompanied by an appropriate reply and the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
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